

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2208

Introduced by Assembly Member Torres
(Coauthors: Assembly Members Portantino and Solorio)
(Coauthors: Senators Correa and Florez)

February 18, 2010

An act to amend Section 290.015 of, and to add Section 290.96 to, the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2208, as amended, Torres. Sex offenders: social networking prohibition.

Existing law requires persons who have been convicted of specified crimes, and other persons as required by a court, to register as a sex offender. Existing law sets forth the procedure for doing so and provides that a violation of the sex offender registration law is a crime, punishable as specified.

This bill would, in addition, make it a misdemeanor for any person ~~required to register as a sex offender~~ *who is on probation or parole for the conviction of a crime that requires him or her to register as a sex offender* to use any Internet social networking Web site, as defined, *during that period of probation or parole if the victim of the offense was under 18 years of age at the time of the offense or the Internet was used in the commission of the crime.* The bill would authorize the person to seek an exception to the prohibition for legitimate professional purposes by applying through the appropriate parole or probation

supervising agency ~~when that person is on parole or probation or by applying through the Department of Justice when that person is not on parole or probation.~~ Approval would be valid for one year, unless revoked. The bill would authorize an annual application for renewal. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290.015 of the Penal Code is amended
2 to read:

3 290.015. (a) A person who is subject to the Act shall register,
4 or reregister if the person has previously registered, upon release
5 from incarceration, placement, commitment, or release on probation
6 pursuant to subdivision (b) of Section 290. This section shall not
7 apply to a person who is incarcerated for less than 30 days if he
8 or she has registered as required by the Act, he or she returns after
9 incarceration to the last registered address, and the annual update
10 of registration that is required to occur within five working days
11 of his or her birthday, pursuant to subdivision (a) of Section
12 290.012, did not fall within that incarceration period. The
13 registration shall consist of all of the following:

14 (1) (A) A statement in writing signed by the person, giving
15 information as shall be required by the Department of Justice and
16 giving the name and address of the person's employer, and the
17 address of the person's place of employment if that is different
18 from the employer's main address.

19 (B) The statement shall include a notice, *if applicable*, that the
20 person is prohibited from using any Internet social networking
21 Web site pursuant to Section 290.96.

22 (2) The fingerprints and a current photograph of the person
23 taken by the registering official.

1 (3) The license plate number of any vehicle owned by, regularly
2 driven by, or registered in the name of the person.

3 (4) Notice to the person that, in addition to the requirements of
4 the Act, he or she may have a duty to register in any other state
5 where he or she may relocate.

6 (5) Copies of adequate proof of residence, which shall be limited
7 to a California driver's license, California identification card, recent
8 rent or utility receipt, printed personalized checks or other recent
9 banking documents showing that person's name and address, or
10 any other information that the registering official believes is
11 reliable. If the person has no residence and no reasonable
12 expectation of obtaining a residence in the foreseeable future, the
13 person shall so advise the registering official and shall sign a
14 statement provided by the registering official stating that fact.
15 Upon presentation of proof of residence to the registering official
16 or a signed statement that the person has no residence, the person
17 shall be allowed to register. If the person claims that he or she has
18 a residence but does not have any proof of residence, he or she
19 shall be allowed to register but shall furnish proof of residence
20 within 30 days of the date he or she is allowed to register.

21 (6) All e-mail addresses and Internet identifiers that the person
22 currently uses or will use, within five days of establishing a new
23 account.

24 (b) (1) Within three days thereafter, the registering law
25 enforcement agency or agencies shall forward the statement,
26 fingerprints, photograph, e-mail addresses, Internet identifiers, and
27 vehicle license plate number, if any, to the Department of Justice.

28 (2) The Department of Justice may release e-mail addresses of
29 Section 290 registrants to Internet social networking Web sites to
30 allow those Internet Web sites to conduct searches and purges of
31 those e-mail addresses and users from their Internet Web sites,
32 provided that the Internet social networking Web sites share all
33 lists of purged e-mail addresses with the Department of Justice
34 who can then report noncompliant registrants to the appropriate
35 authorities.

36 SEC. 2. Section 290.96 is added to the Penal Code, to read:

37 ~~290.96. (a) Any person who is required to register under the~~
38 ~~Sex Offender Registration Act shall be prohibited from using any~~
39 ~~Internet social networking Web site.~~

1 290.96. (a) Commencing January 1, 2011, except as provided
2 in subdivision (c), in any case in which a defendant is granted
3 probation or parole for the conviction of an offense that requires
4 him or her to register as a sex offender pursuant to Section 290,
5 and either (1) the victim of the offense was under 18 years of age
6 at the time of the offense, or (2) the Internet was used in the
7 commission of the crime, that defendant shall be prohibited from
8 accessing an Internet social networking Web site during the period
9 of time he or she is on probation or parole.

10 (b) Any person who violates this section is guilty of a
11 misdemeanor punishable by imprisonment in a county jail for not
12 exceeding six months, by a fine not exceeding one thousand dollars
13 (\$1,000), or by both that imprisonment and fine.

14 ~~(c) (1) Any person who is required to register pursuant to the~~
15 ~~Sex Offender Registration Act~~

16 (c) Any person who is prohibited from accessing an Internet
17 social networking Web site pursuant to subdivision (a) and who
18 seeks an exception to the prohibition to use an Internet social
19 networking Web site for legitimate professional purposes may
20 apply for an exception to the prohibition through the appropriate
21 parole or probation supervising agency when that person is on
22 parole or probation. Approval shall be valid for one year unless
23 revoked by the supervising agency with notice to the person
24 required to register. The person may apply to renew the exception
25 annually.

26 ~~(2) Any person who is required to register under the Sex~~
27 ~~Offender Registration Act, who is not on parole or probation, and~~
28 ~~who seeks an exception to the prohibition to use an Internet social~~
29 ~~networking Web site for legitimate professional purposes may~~
30 ~~apply for an exception to the prohibition through the Department~~
31 ~~of Justice. Approval shall be valid for one year unless revoked by~~
32 ~~the department with notice to the person required to register. The~~
33 ~~person may apply to renew the exception annually.~~

34 (d) For the purposes of this section, "Internet social networking
35 Web site" is defined as an Internet Web site that does all of the
36 following:

37 (1) Allows users, through the creation of Internet Web pages
38 or profiles or by other means, to provide information about
39 themselves that is available to the public or to other users.

1 (2) Offers a mechanism for communication with other users
2 where those users are likely to include a substantial number of
3 minors.

4 (3) Has as its primary purpose the facilitation of online social
5 interactions.

6 SEC. 3. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.